



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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REGIONAL
ADMINISTRATOR'S
DIVISION

September 2, 2021

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

Dear Ms. Bose,

The U.S. Environmental Protection Agency has reviewed the Federal Energy Regulatory Commission's June 2021 Environmental Assessment for Non-Capacity Amendment of License to the Box Canyon Hydroelectric Project (FERC Project Number 2042-191; EPA Project Number 21-0039-FERC). Our review was conducted in accordance with our responsibilities under the National Environmental Policy Act.

On July 11th, 2005 FERC issued a license for the operation of the Box Canyon Hydroelectric Project on the Pend Oreille river in Pend Oreille County, Washington, and Bonner County, Idaho. The licensee for the project is to the Public Utility District (PUD) No. 1 of Pend Oreille County. The EA analyzes the environmental impacts associated with the proposal to amend this license. The project occupies 190.25 acres within the Colville National Forest and 493.03 acres within the Kalispel Indian Reservation. The National Forest lands are under the U.S. Forest Service (Forest Service) supervision, and the Kalispel Reservation lands are under the U.S. Department of the Interior's (Interior) supervision. The license expires in 2055.

The EA is being filed to incorporate mandatory changes filed by the Interior on July 10, 2019. The changes include the development of a Comprehensive Plan which requires the licensee to: work with stakeholders in the Pend Oreille River basin to develop goals for habitat restoration; prioritize restoration areas; establish how goals would be achieved; and identify how monitoring will be conducted to ensure that goals are met. The amendment also includes provisions to revise the license order to remove the requirement for downstream fish passage at the Box Canyon Dam and upstream and downstream fish passage at the Calispell Creek Pumping Plant. The EA also discusses the implementation of provisions in the Off-License Settlement Agreement between the PUD and the Kalispel Tribe.

The EA discusses the temperature Totally Daily Maximum Loads (TMDLs) within the Pend Oreille River. The TMDL addresses the survival of adult Bull Trout (*Salvelinus confluentus*) populations, an Endangered Species Act listed species, in these waterways in the hotter summer months. EPA's attached comments identify additional concerns about the temperature impacts of the project for different stages (e.g. fry stages of development) of life for the Bull Trout. EPA's attached comments also include considerations about the decision to exclude upstream and downstream fish passage at the CCPP for the duration of the license. Our concerns are addressed in more specific detail in the included enclosure.

We appreciate the opportunity to provide recommendations to improve the NEPA environmental document. EPA looks forward to continued involvement during the NEPA process. If you have any

questions about our comments, please contact Lauren Boldrick at (907) 271-5097 or boldrick.lauren@epa.gov.

Sincerely,

Rebecca Chu, Chief
Policy and Environmental Review Branch

Enclosure: EPA Comments| July 2021

**EPA Comments on the proposed
Box Canyon Hydroelectric Project for a Non-Capacity Amendment of License
Washington and Idaho | July 2021**

Fisheries

Section 18 Fishway Prescriptions

The EA describes that fish mortality passing through the spillway and turbines at the BCD is low. However, the EA does not discuss the cumulative effect of this project in the context of the overall habitat range of native fish species. For example the average home range of the Bull Trout is around 150 miles and it is likely that the BCD is not the only facility the fish will have to navigate throughout their life cycle. We recommend that the EA be revised to include considerations of cumulative effects that Bull Trout face due to navigating multiple artificial structures such as dams.

The EA describes that Interior has concluded that downstream fish passage at the BCD and upstream and downstream fish passage at CCPP is not as high of a priority as other unfunded conservation actions needed throughout the Lower Pend Oreille River Basin. Removal of fish passage at the CCPP was made because of the poor habitat, high temperatures, and other fish passage barriers that exist upstream of the CCPP along Calispell Creek. Given that some restoration work has already been conducted in Calispell Creek, and future restoration of the creek may lead to more suitable habitat, EPA recommends an adaptive management approach be applied to Calispell Creek. If conditions improve, and funding becomes available, EPA recommends that the topic of fish passage at CCPP be revisited prior to the end of the license in 2055.

Temperature TMDLs

The Washington Administrative Code (WAC 173-201A Water Quality Standards for Surface Waters of the State of Washington) designates beneficial uses for Pend Oreille River to include spawning and rearing habitat for Bull Trout. Bull Trout spawning typically occurs in the fall, however the data included in the EA focuses on the summer months between June through September when the licensee's water quality monitoring indicates that water temperatures commonly exceed the Washington State water quality standard of 20°C and that temperatures in the river and tailrace can exceed 24°C for multiple days in August. The most recent TMDL for the Pend Oreille River has criteria for when the temperature is below 20°C but above 12°C, which can occur in the beginning of fall when spawning occurs, however this period is not mentioned in the EA. EPA recommends including information on the potential effects of the BCD operation on water temperature throughout fall.

Climate Resilience

In characterizing the affected environment and environmental consequences of the proposed amendment of license, EPA recommends that EA analyze:

- Existing and reasonably foreseeable environmental trends related to a changing regional and local climate, particularly within the Bull Trout's critical habitat in proximity to the Box Canyon and Albeni Dams.
- Reasonably foreseeable effects that a currently changing climate will have on the proposed project and the project area. This could help inform the development of measures to improve the climate resilience of Box Canyon and Albeni dams. Projected climate-related changes may notably stress the affected environment or alter fish passage ability (as described in the amendment to license) by increasing spill over the dams to aid fish passage/migration during a severe drought and heat wave in the region; these impacts should also be considered as part of the NEPA analysis.

Environmental Justice

To characterize the impacts of the amendment of license, EPA recommends that the Commission include the following information in the EA:

- Discussion of the project's potential disproportionate impacts to local populations. See Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*. We recommend that FERC review EPA's EJ Screen tool to further examine the potential socioeconomic or sociocultural impacts to communities with environmental justice concerns. Initial reviews of EJ Screen results show that the number of residents near the BCD that are over the age of 64 is in the 88th percentile when compared to the rest of the state. Furthermore, the number of residents considered to be low income near the BCD is within the 68th percentile when compared to the rest of the state.
- Measures to be taken within the OSLA or Watershed Program to minimize the project's effects on any subsistence resources and uses in the project area or because of the proposed action.
- Analysis of economic changes and corresponding impact to local communities.

Financial Assurance

To support the Commission's continued involvement with the Box Canyon Dam and Albeni Dam, please be advised that EPA has recently consulted FERC on financial assurance mechanisms for hydroelectric projects. As local, regional, and national conditions fluctuate due to climate change, EPA suggests requiring financial assurance mechanisms in licenses and other authorizations to cover the costs of safety measures and project operation and maintenance, including specific adaptive management plans to contend with changing climatic conditions that may affect operations. EPA also suggested establishing a trust to assist licensees in preventing or responding to accidental catastrophic failures that may occur on existing large projects as a result climate change. Careful consideration of local impacts will ensure financial assurances for new and existing projects are considered when creating measures to incorporate climate resiliency planning and response mechanisms for infrastructure.